

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

YORKSHIRE TOWERS COMPANY L.P., *et*  
*ano.*

*Plaintiffs,*

- against -

UNITED STATES DEPARTMENT OF  
TRANSPORTATION, *et al.*,

*Defendants.*

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13 CIV 1757 (JMF)

**NOTICE OF MTA DEFENDANTS'  
MOTION TO DISMISS**

PLEASE TAKE NOTICE that defendants Metropolitan Transportation Authority, Fernando J. Ferrer in his capacity as its Acting Chairman, New York City Transit Authority, Thomas F. Prendergast in his capacity as its President, Metropolitan Transportation Authority Capital Construction Company and Michael Horodniceanu in his capacity as its President (collectively, the "MTA Defendants"), upon the Amended Complaint, the annexed Declaration of Philip E. Karmel and the exhibits thereto, and the Memorandum of Law submitted herewith, will move this Court before the Hon. Jesse M. Furman at the Thurgood Marshall United States Courthouse, 40 Foley Square, Courtroom 1105, New York, New York, on a date and time to be determined by the Court, for an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Amended Complaint on the ground that it is barred by the doctrines of *res judicata* and collateral estoppel as a result of the preclusive effect of the judgment entered by this Court in Yorkshire Towers Co. v. U.S. Depart. of Transp., 11 Civ. 1058, 2011 WL 6003959 (S.D.N.Y. Dec. 1, 2011), is barred by the applicable statute of limitations, fails to state a claim upon which relief can

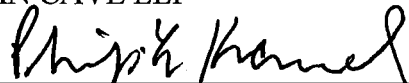
be granted under the National Environmental Policy Act and its implementing regulations, and is barred by the doctrine of waiver, and granting defendants such further and additional relief as the Court may deem just and equitable.

Pursuant to Local Rule 6.1(b), papers in opposition to this motion must be served 14 days after service of the moving papers, or at such other time as required by the Court.

Dated: New York, New York  
April 22, 2013

Yours, etc.

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/s/

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/s/

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